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SUBJECT: HKG Responds to BSA Study Corrected Copy

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1. (SBU) Summary: Intellectual Property Department (IPD) Deputy Director Peter Cheung said that the Hong Kong Government (HKG) was surprised by the negative results of the Business Software Alliance (BSA) annual software piracy survey, which reports that Hong Kong's software piracy rate increased from 52 to 54 percent in 2005. Cheung said that the HKG was sensitive to the results and was planning to launch a new package of intellectual property rights (IPR) initiatives, including a publicity campaign that will be coordinated with the Customs and Excise Department. Cheung opined that the study results would also bolster voices in the Legislative Council (Legco) that are arguing for more powerful language as Hong Kong deliberates amendments to its Copyright Ordinance. The BSA study places Hong Kong as one of 19 economies that registered an increase in software piracy rates, as opposed to 51 economies where there was a decline, including Mainland China, which had a 4 percent drop. Hong Kong Chairperson Belinda Lui told Econoff that the official unveiling of the study was moved to Hong Kong this year to reflect the BSA's "extreme disappointment" with Hong Kong's results. End Summary.

The BSA Report and The HKG Response

2. (SBU) On May 23, 2006, the BSA released the results of its third annual survey on software piracy. The survey, which is conducted by market research firm IDC and is the largest survey of its kind, reports that Hong Kong's software piracy rate increased from 52 percent to 54 percent in 2005. IPD Deputy Director Peter Cheung told Econoff that he was shocked by the negative results of the survey and that the HKG would be actively seeking ways to crack down on software piracy overall and business end-user software piracy in particular.

3. (SBU) Cheung opined that the survey results would also weigh heavily on the minds of Legco members currently deliberating proposed amendments to the Copyright Ordinance. The survey results may weaken opposition to a proposed new clause in the Ordinance that would specifically pin liability for corporate copyright violations upon the directors or partners of the company. Cheung said that on May 29 the HKG would officially launch a new publicity campaign aimed at raising public awareness of IPR issues.

The campaign, which is being coordinated by the Commerce, Industry, and Technology Bureau (CITB) with IPD and Hong Kong Customs, will focus on online IPR violations as well as other forms of digital piracy.

Regional Picture

¶4. (SBU) Hong Kong's rising software piracy rate contrasts with improved figures for other regional economies, including Singapore (from 42 percent to 40 percent), Malaysia (from 61 percent to 60 percent), and mainland China, which dropped from 90 percent to 86 percent. BSA Hong Kong Chairperson Belinda Lui said that while the overall software piracy rate in China remains high, the 2005 results show that the country is moving in the right direction. She expects the mainland will probably see another drop next year as it moves to ban the use of pirated software by government departments and as PC manufacturers, such as Lenovo, adhere to commitments to pre-install only legitimate software into new models.

¶5. (SBU) Lui continued that although Hong Kong has an overall effective enforcement regime, the HKG's continuing inability to win contested prosecutions in business end-user piracy cases contributed to the increase in the piracy rate. She said that BSA decided to move the official unveiling of the study to Hong Kong to emphasize its view that Hong Kong is moving in the wrong direction on IPR protection.

CUNNINGHAM